

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL NO. 1456

THIS DOCUMENT RELATES TO:

BMS SETTLEMENT AND  
TRACK TWO SETTLEMENT

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**CLASS PLAINTIFFS' 13TH STATUS REPORT FOR BMS AND  
TRACK TWO SETTLEMENTS**

**A. Background**

On November 30, 2010, the Court issued an Order for Final Consideration of the BMS Settlement (Dkt. No. 7313) and an Order for Final Consideration of the Track Two Settlement (Dkt. No. 7314) (collectively, the “November Orders”). The November Orders directed Class Counsel to provide monthly status reports “detailing the progress” of the BMS and Track 2 Settlements. This is the thirteenth such report.

**B. BMS Settlement**

The Court held a final fairness hearing related to the BMS Settlement on July 7, 2011. On July 19, 2011 the Court entered an order granting final approval of the BMS Settlement (Dkt. No. 7674). No appeals to the Court’s Order granting final approval of the BMS Settlement were filed. On August 29, 2011 the parties entered a stipulation dismissing all appeals in the First Circuit related to the BMS Settlement. The claims administrator is currently processing consumer claims for a projected distribution of funds to class claimants in December 2011.

**C. Track Two Proposed Settlement**

On August 30, 2011, the Court approved Class Counsel's proposed rebalancing plan and approved the form and manner of notice to be sent to class members affected by the proposed rebalancing. Dkt. No. 7772. The supplemental notice approved by the Court was mailed, first class, to all affected consumer class members on September 16, 2011. The Court held a final approval hearing on November 22, 2011. During that hearing the Court indicated it intended to approve the Settlement. A proposed form of final order approving the Settlement is to be filed on December 2, 2011 for the Court's review and approval.

**D. The Next Status Report**

Pursuant to the November Orders, Class Counsel will submit its next regularly-scheduled Status Report on January 2, 2011.

DATED: December 2, 2011

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**CLASS COUNSEL**

**CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **CLASS PLAINTIFF'S 13TH STATUS REPORT FOR BMS AND TRACK TWO SETTLEMENTS**, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on November 1, 2011, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman

Steve W. Berman